

Jan Boudart

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Friday, December 08, 2006

Ex Parte

Ms. Marilyn Dortch, Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

Re: Implementation of Section 621(a)(1) of the Cable Communications Policy Act of 1984 as amended by the Cable Television Consumer Protection and Competition Act of 1992, MB Docket No. 05-311

Dear Ms. Dortch,

This notice is to record my ex parte meetings with Chairman K.J. Martin through his staff member Heather Dixon, Michael Copps through Bruce Gottlieb, Jonathan Adelstein through Rudy Brioché, D. Taylor-Tate through Chris Robinson, and Robert McDowell through Rafael Hernandez. (These were all “meetings” which took place between me and the voice mails of the 5 stated staff members.) I stated my concerns via voicemail on December 8, 2006. Here is an elaborated rendition of the comments I left on their voicemails:

We unite with Alliance for Community Media members in calling for competition without destruction of local, community controlled media.

- 1) The proposed rule eliminates incentive for providers to negotiate in good faith. If the city and the provider do not come to agreement within 90 days, the provider can proceed without an agreement. They can then make billions of dollars using our public land without considering local needs. This framework would be unreasonable.
- 2) The proposed rule lacks a remedy for geographic discrimination. Public, Education and Government Access, or PEG, are tools to engage our local communities in democracy. Democratic participation should be for all, not based on a company business rule. The public-right-of-way is owned by all in our community, not just those in an area lucky enough to be served. We believe that inevitable market imbalances must be anticipated by the FCC, as they were by Congress, and that any rule-making must provide these three elements:
 - A) A standard for identifying imbalances in service.

B) A party responsible for identifying the imbalance—logically, the municipality.

C) A means for prevention or remedy of the imbalance.

- 3) The proposed rule reduces the support for PEG or other community media services from what is allowed by current Federal law. We believe this is AN ARBITRARY REDUCTION WHICH WILL HURT OUR COMMUNITIES. It is in direct contradiction to language authored by telephone companies and already passed in key states such as California and Texas. This reduction would eliminate a valued community resource with no demonstrated effect on either subscriber price or level of competition.
- 4) The changes being proposed to the law are dramatic. We believe that such changes to the law should be made by Congress, not the FCC. These changes will slow competition by confusing the legal framework. Such changes should be decided by law-makers, not the courts. The FCC should not usurp Congressional authority.

We look forward to working with the FCC to establish a process which supports both competition and community fairness. Please contact us if you have questions or comments.

Sincerely,

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